IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA

WP(C).No. 16806 of 2007(A)

PETITIONER:

V.SUJESH,AGED 32 YEARS,
S/O.VIDHYADHARAN, MANGALASSERY HOUSE,
ARPOOKKARA WEST P.O.,KOTTAYAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY ITS SECRETARY (HOME), GOVT.SECRETRIAT, THIRUVANANTHAPURAM.

2. THE SUB INSPECTOR OF POLICE, EAST POLICE STATION,KOTTAYAM.

3. THE CIRCLE INSPECTOR OF POLICE, EAST POLICE STATION, KOTTAYAM.

4. THE DEPUTY SUPERINTENDENT OF POLICE, KOTTAYAM.

5. THE DISTRICT SUPERINTENDENT OF POLICE, KOTTAYAM.

6. THE ASSISTANT ESXCISE COMMISSIONER, KOTTAYAM.

7. THE DISTRICT COLLECTOR, KOTTAYAM.

8. P.V.ANDROOS @ MANI, PARANGAD HOUSE, PUTHUPPALLY,KOTTAYAM DISTRICT.

9. THANKACHAN, S/O.THOMACHAN @ THOMAS,
KAPYARATHU HOUSE, PUTHUPPALLY,
KOTTAYAM DISTRICT.

R1 TO R7 BY GOVT.PLEADER SRI K.C.SANTOSH KUMAR

R8 & R9 BY ADV. SRI.K.REGHU KOTTAPPURAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).No16806/2007

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE TODDY SHOP NO.51/2007-08 IN RESPECT OF TODDY SHOP NO.56/2007-08 ISSUED BY THE ASST. EXCISE COMMISSIONER, KOTTAYAM.

EXT.P2 PHOTOCOPY OF THE PETITION DTD. 31/5/2007 SUBMITTED BEFORE THE 2ND RESPONDENT WITH COPIES TO RESPONDENTS 3 TO 5.

RESPONDENTS' EXTS:

EXT.R8(1) TRUE COPY OF MASS PETITION DTD. 31/5/2007.

EXT.R8(2) TRUE COPY OF PETITION DTD. 3/6/2007 BY THE ; ULLADA SABHA.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN & K. HEMA, JJ.
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W.P.(C) NO. 16806 OF 2007
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DATED THIS, THE 7TH DAY OF JUNE, 2007.

J U D G M E N T

Raman, J.

Petitioner has been issued with a licence for vending toddy as evidenced by Ext.P1, by the competent authority under the Abkari Act and Rules. It is alleged that on 31.5.2007, some persons under the leadership of Respondent Nos. 8 and 9 came to the toddy shop, threatened the petitioner and his workers and also destroyed the toddy and utensils kept in the toddy shop. Petitioner preferred a complaint to the second respondent with copies to respondents 3 to 5 seeking necessary protection. But so far, no protection has been afforded which compelled him to approach this Court by filing this writ petition.

2. Pursuant to the notice, Respondents 8 and 9 filed a counter affidavit. They denied the allegations made in the writ petition. However, they maintained that the toddy shop now attempted to be opened is in a residential locality thickly populated. Further, even though during the course of argument, it is contended by the learned counsel for the respondents that there is a SC/ST Colony within a prohibited distance of the proposed shop, it is submitted by the learned counsel for the petitioner

and the learned Government Pleader that no such case is put forth in Ext.R8 (1) or (2).

3. We are however, not entering any finding as to whether any institutions are functioning within the prohibited distance as referred to under Rule 7 of the Abkari Shops Disposal Rules. So long as the petitioner is doing his business in accordance with the license conditions and there is no prohibitory orders issued by any statutory authority, he is entitled to carry on his business uninterrupted by Respondents 8 and 9. However, if respondents 8 and 9 have got any protest in running the toddy shop in the present premises, they can express their protest only in a peaceful manner; but cannot take law in to their own hands and obstruct the petitioner from doing his business. In case party respondents have got any grievance in the matter of conducting the shop, it is open to them to approach the statutory authorities in which event such grievance will be looked into and disposed of by such authorities in accordance with law.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)

knc/-